

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6812 of 2007

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(CRIME NO. 654/2007 OF HOSDURG POLICE STATION)**

ACCUSED NOS 1 AND 2:

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1. HANEEFA, S/O.ABDULLA,
RESIDING AT CHITHERI, P.O.CHITHERI.**

**2. ABDUL RAHIMAN @ ANDRU,
S/O.ABDULLA, RESIDING AT CHITHERI,
P.O.CHITHERI.**

BY ADV. SMT.T.SUDHAMANI

RESPONDENTS: COMPLAINANT:

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STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 07/11/2007,THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

R.BASANT, J.

B.A.No.6812 of 2007

Dated this the 7th day of November 2007

O R D E R

Application for anticipatory bail. The petitioners are the husband and brother-in-law of the de facto complainant. The marriage between the de facto complainant and the first petitioner had taken place on 12/12/1996. Two daughters have been born in the wedlock. The petitioners face allegations under Section 498A I.P.C. The crux of the allegations against the petitioners is that they were guilty of matrimonial cruelty of the culpable variety against the de facto complainant. The de facto complainant had lost her father and mother. She has to fall back on her brother to support her. The first petitioner who had gone abroad, after his return, contracted another marriage and allegedly had thrown the de facto complainant and children out of the house. On coming to know that he has come back from abroad, the de facto complainant had allegedly gone to the house, along with her children. Then she was assaulted. She suffered injuries. She was admitted in the hospital. At the hospital, her statement was recorded and the crime was registered.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. It is prayed that anticipatory bail may be granted to the petitioners.

3. The learned Public Prosecutor opposes the application. Case diary has been perused by me. The wound certificate is available in the case diary. Considering the totality of the circumstances available, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

4. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007